THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 25650 OF 1998

Dated 16th April, 2007

Between:

B.Narayanappa and others.

...Petitioners.

And

Government of A.P. represented by its Secretary,
Revenue (Assignment-IV), Department, Secretariat,
Hyderabad and others.

…Respondents.

ORAL ORDER:

This writ petition is filed aggrieved by the order of the Government dated 7.4.1998 passed in letter No. 39153/ASN-4(2)/97 confirming the orders of the Special Commissioner dated 11.2.1997 and the Joint Collector, dated 31.3.1993, on a revision being filed by the petitioners.

The father of the petitioners 1 and 2 and 3rd petitioner were assigned land to an extent of Ac. 4.07 cents in Survey Nos. 59/4C, 59/4A, 59/4B, 59/4D and 59/5 situated at Peddaparthikunta village by the then Tahasildar, Kuppam vide his proceedings dated 28.1.1977. After grant of assignment, the 5th respondent herein, who was the Sarpanch then lodged a complaint stating that the petitioners were not eligible for assignment and the land was a hill poramboke and was being used for communal purposes by the village. Initially, the Joint Collector rejected the said complaint. But, however, when the matter was carried before the Commissioner, Land Revenue, he had passed orders directing the Joint Collector to consider the matter afresh. Based on the report of the Tahsildar dated 6.9.1979 in proceedings No. B2/5619/78, the Joint Collector by orders dated 31.3.1993 vide proceedings D.Dis.No. B7/9183/85 passed orders cancelling the assignment. The said order was questioned before the Special Commissioner, Land Revenue, A.P., Hyderabad, who had confirmed the order of cancellation passed by the Joint Collector. As against the said orders, the matter was carried in revision before the Government on 29.5.1997, but the same is also dismissed by the impugned order dated 7.4.1998.

It is the case of the petitioners that as on the date of the

assignment, the father of the petitioners 1 and 2 i.e. late Uchappa and the third petitioner, Beerappa were having 14.00 acres of land and in the partition, an extent of Ac.7.00 each had come to their share. It is their case that in view of the total extent of land and the number of major sons as on the date of assignment, they were eligible for grant of assignment. It is also stated that after grant of assignment, they have developed the land by investing huge amounts to bring the land into cultivation and that the objection taken against the assignment is politically motivated with an intention to deprive the petitioners of the land assigned.

In the counter affidavit filed on behalf of the respondents, it is stated that the original assignees were the joint family members and they were holding an extent of 13.49 acres of dry land apart from the land to an extent of Ac.5.14 in the name of 3rd petitioner. It is stated that the assignment was made on the misrepresentation of facts and in that view of the matter, exercising the powers under Board Standing Order 15 (18), the Joint Collector correctly cancelled the assignment. It is stated that pursuant to the orders of cancellation of assignment, lands were resumed on 26.4.1993.

Though it is specifically pleaded that the revision petition filed before the Government was disposed of without any notice and opportunity to the petitioners, the same is not controverted in the counter affidavit filed on behalf of the respondents. A perusal of the order passed by the Government also does not indicate issuance of any prior notice and opportunity. The Government has disposed of the Revision Petition merely stating that there are no grounds to consider the revision without even adverting to the grounds of revision. Inasmuch as the revisional authority i.e. the Government has not considered the revision after giving an opportunity of being heard to the petitioners, without going into the merits of the case, I deem it appropriate to set aside the order passed by the

Government dated 7.4.1995 and remit the matter back for consideration afresh. Accordingly, the order under challenge is set aside and the matter is remitted back to the respondent-Government to dispose of the revision petition filed by the petitioners on 29.5.1997 by affording an opportunity of being heard to the petitioners. If the revision petitioners are represented by an Advocate, the first respondent-Government shall issued notice to both the Advocate as well as the petitioners before fixing any date for hearing of the Revision Petition, hear the petitioners, or, their counsel, and pass appropriate orders on merits. However, as, on one hand it is stated in the counter affidavit that the land was resumed and on the other hand, it is submitted by the learned counsel for the petitioners that the land is still in possession of the petitioners, I direct that the status quo with regard to possession shall be maintained till appropriate orders are passed by the revision authority. It is open to the petitioners to raise all such pleas as are available to them before the revisional authority.

The writ petition is allowed to the extent indicated above. No costs.

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16-4-2007

R.SUBHASH REDDY, J.

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